

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Rule making related to residential care facilities

The Inspections and Appeals Department hereby amends Chapter 63, “Residential Care Facility—Three- to Five-Bed Specialized License,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 10A.104 and 135C.14.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 135C.14.

Purpose and Summary

Iowa Code section 135C.2(5) requires the Department to establish a special classification within the residential care facility category in order to foster the development of residential care facilities which serve persons with an intellectual disability, chronic mental illness, developmental disability, or brain injury and which contain five or fewer residents. Iowa Code section 135C.2(5) also requires the Department to include a provision requiring such a facility to be located in an area zoned for single- or multiple-family housing or in an unincorporated area and to be constructed in compliance with applicable local requirements and the rules adopted for the special classification by the state fire marshal in accordance with the concept of the least restrictive environment for the facility residents. These amendments adopt this provision.

These amendments require facility personnel to be available and responsive to residents’ needs while on duty.

These amendments remove the requirement that a person successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination prior to taking a Department-approved medication aide course. The Department-approved medication aide course was previously revised, which rendered this requirement unnecessary, and the amendments align with current Department practice.

These amendments remove the requirement that facilities within the special classification abide by Chapter 60, “Minimum Physical Standards for Residential Care Facilities.” Facilities within this special classification have not previously had to abide by Chapter 60, and these amendments align the rules with current Department practice.

Finally, these amendments update the language used in expressing bedroom requirements to maintain consistency with the Department’s rules related to other types of facilities that are substantively identical. The amendments do not substantively change the bedroom requirements for this special classification.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on June 5, 2019, as **ARC 4467C**. Two sets of comments were received. One commenter expressed concern about the removal of the requirement that a person complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination prior to taking a Department-approved medication aide course.

In 2016, this requirement was removed from the chapters for other types of residential care facilities (see **ARC 2643C**, IAB 8/3/16). Eliminating this requirement permits an individual to become trained as a certified medication aide (CMA) without first being trained as a certified nurse aide (CNA), thereby allowing residential care facilities, particularly those in rural areas, to more easily hire CMAs. In order

to become a CMA, an individual must complete a 60-hour course, available at Iowa community colleges, consisting of classroom study and clinical experience.

A second commenter requested that the Department not amend paragraph 63.8(5)“b” to require personnel to be awake at all times while on duty. The commenter cited differences related to size and physical environment of the three- to five-bed residential care facilities as compared to other types of residential care facilities. Specifically, the commenter noted that these facilities are familylike, with bedrooms located in areas of the home where staff can more easily monitor for safety concerns than would be possible at larger residential care facilities. In addition, the commenter noted that difficulties in filling overnight and weekend staff positions would be increased were this paragraph to be amended as proposed in the Notice.

One change from the Notice was made based on the comments received. Paragraph 63.8(5)“b” now provides that personnel must be available and responsive to residents’ needs while on duty. This change allows licensees some flexibility in establishing policies regarding 24-hour coverage by personnel.

Adoption of Rule Making

The State Board of Health initially reviewed the proposed amendments at its May 8, 2019, meeting and approved these amendments at its July 10, 2019, meeting. This rule making was adopted by the Department on July 10, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 481—Chapter 6.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on September 4, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend paragraph **63.3(1)“b”** as follows:

b. Meet all of the rules, regulations, and standards contained in this chapter and in 481—~~Chapters Chapter 50 and 60. Exceptions noted in 481—subrule 60.3(2) shall not apply.~~

ITEM 2. Amend paragraph **63.8(5)“b”** as follows:

b. Personnel in a specialized residential care facility shall provide 24-hour coverage for residential care services. Personnel shall be up and dressed when residents are awake available and responsive to residents’ needs at all times while on duty. (I, II, III)

ITEM 3. Amend paragraph **63.16(3)“d”** as follows:

d. Prior to taking a department-approved medication aide course, the person shall:

~~(1) Successfully complete an approved residential aide course, nurse aide course, nurse aide training and testing program or nurse aide competency examination; (III)~~

(2) ~~Have~~ have a letter of recommendation for admission to the medication aide course from the employing facility. (III)

ITEM 4. Adopt the following new paragraph **63.35(1)“d”**:

d. The facility shall be located in an area zoned for single- or multiple-family housing or in an unincorporated area and shall be constructed in compliance with applicable local housing codes and rules adopted for this classification of license by the state fire marshal. (II, III)

ITEM 5. Amend paragraph **63.35(4)“a”** as follows:

a. Each resident shall be provided with a ~~standard, single, or twin~~ twin-sized or larger bed, substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. (III)

[Filed 7/10/19, effective 9/4/19]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/31/19.